

EXHIBIT 23

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18 Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
19 REED, and COASTAL PROTECTION
RANGERS, INC.
20

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
23

24 CORY SPENCER, an individual;
25 DIANA MILENA REED, an
individual; and COASTAL
26 PROTECTION RANGERS, INC., a
27 California non-profit public benefit
corporation,
28

CASE NO. 2:16-cv-02129-SJO (RAOx)

**DECLARATION OF MARK SLATTEN
IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

Date: February 21, 2017
Time: 10:00 a.m.

1 Plaintiffs,

2 v.

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS
13 VERDES ESTATES; CHIEF OF
14 POLICE JEFF KEPLEY, in his
representative capacity; and DOES
1-10,

15 Defendants.

Judge: Honorable S. James Otero
Ctrm.: 10C
1st Street Courthouse

Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

15 I, Mark Slatten, declare as follows:

16 1. I have personal knowledge of the facts set forth herein, except
17 as to those stated on information and belief and, as to those, I am informed
18 and believe them to be true. If called as a witness, I could and would
19 competently testify to the matters stated herein.

20 2. I am the President of Plaintiff, Coastal Protection Rangers, which
21 is a California non-profit public benefit corporation (hereafter "CPR"). Prior to
22 incorporation, CPR was an unincorporated membership association. This is
23 a completely volunteer position. I earn a living, however, as a licensed
24 geologist and own a company called Clean Soils Inc. My company is hired to
25 conducted investigations into property impacted by hazardous substances,
26 often chlorinated solvents, and implement systems to remediate the soil and
27 groundwater.

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1 3. I grew up in Southern California. As a young boy, my family lived
2 one block off Manhattan Beach, CA. I spent most days at the beach
3 bodysurfing and enjoying the ocean. In junior high school, we moved to
4 Palos Verdes, and I learned to surf. This is back when the surfboards were
5 long, big and heavy. I heard through the “grapevine” to stay away from the
6 southern side of the peninsula. I understood this to mean anything south of
7 Bluff Cove. The “why” made no sense then, but it does now. The people who
8 said to avoid those parts of the Peninsula were referring to the problem with
9 localism.

10 4. While attending the University of California, Los Angeles (UCLA)
11 I lived in Hermosa Beach and worked in Redondo Beach. Today, I live with
12 my wife -- about 20 miles from the beach at Carlsbad (San Diego County)
13 and go there frequently. To me and CPR, the beach represents many things
14 – it demonstrates the strength of nature, how small we are as humans,
15 freedom, a place to explore, a venue to gather with friends and others, and a
16 place where people can express themselves in activities like surfing. In
17 sum, the beach has always given me great joy. It is a place where I can go
18 to mediate and escape the stress of everyday life, relax and be happy.
19 These are some of the reasons why the coastal areas must be protected
20 from selfish, exclusion-oriented and otherwise mean people.

21 5. From 1970-72, I studied the geology of the Santa Monica
22 Mountains while attending Moorpark College. During that time, I become an
23 avid hiker. This was sparked by my interest in geology. I have hiked and
24 enjoyed the Coastal Mountain ranges all over the State of California. My
25 love for the natural sciences led me obtain a Master’s Degree in science in
26 geology from University of California Riverside and Bachelor of Science,
27 Geology with paleontology minor. I am a Professional Geologist and hold
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1 licenses in six states including. I am also a California Certified
2 Hydrogeologist.

3 6. I decided to start CPR in 2014 after a long discussion with a
4 friend who is an environmental attorney. I was familiar with the Coastal Act
5 because of some work that I was doing related to the former Halaco refinery
6 that was built on coastal wetlands in the City of Oxnard. We discussed how
7 the private enforcement provisions of the Coastal Act could be used to
8 ensure existing beach access and open up beaches long denied to the
9 public, to stop illegal developments and to protect the coastal zone. We also
10 discussed how the California coast is one of the largest open spaces near
11 urban areas and how surfing and exposure to beach activities could be used
12 as a tool to help the poor generally, and specifically at-risk youths in
13 communities that have too little access to recreation, parks, nature and the
14 outdoors.

15 7. In addition, several of CPR's board members and/or volunteers
16 of the organization are surfers and/or enjoy the beach and grew up in areas
17 near Palos Verdes Estates such as Redondo Beach, Rancho Palos Verdes,
18 Hermosa Beach and Torrance. They would have liked to have surfed, dived,
19 taken photographs, hiked, or even just enjoyed nature and the beach at
20 Lunada Bay but were afraid to because of the reputation that it had for
21 localism. For example, board member Dave Leuck grew up in Redondo
22 Beach. Having surfed since the age of 8, lived in Hawaii for two years, and
23 having spent six months surfing Mainland Mexico, he has the skill to surf
24 Lunada Bay on good days. Yet, he has never been able to surf there
25 because of the problem with localism. The same is true for Ian Stenehjem
26 who grew up in Rancho Palos Verdes just 2 miles from Lunada Bay and has
27 surfed his entire life. Ian is a pilot for a major airline and has surfed the best
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1 breaks in the world for the last 20 years but has never been able to surf the
2 break closest to where he grew up because of the locals.

3 8. Around December 2015, I read an article in The Los Angeles
4 Times about a dispute the Coastal Commission was having with the City of
5 Palos Verdes Estates regarding an illegal structure at Lunada Bay and the
6 issue of localism. What was immediately apparent to me was the fact that
7 the City seemed to be challenging the authority of the Coastal Commission.
8 CPR's attorney and I researched bringing a private enforcement action. We
9 looked at various things including past efforts to stop localism at Lunada Bay
10 and other surfing spots in Palos Verdes Estates. Throughout the years, the
11 South Bay Chapter of the Surfrider Foundation seemed dedicated to
12 stopping localism. There are numerous articles showing the efforts made by
13 their volunteers. Yet, the Surfrider Foundation had not been able to solve the
14 problem. Because beach access is central to CPR's mission, the board
15 voted to become a plaintiff in this case.

16 9. As part of the investigation in this matter, I have learned how the
17 City of Palos Verdes Estates has not enforced laws against locals, such as
18 the law prohibiting drinking alcohol on public beaches and laws that prohibit
19 people from blocking access to the beach. And, I learned about historic
20 discrimination in Palos Verdes Estates, including: (a) the Palos Verdes
21 Homes Association and Art Jury designed to "protect this utopian landscape
22 and future property values" that was established in 1923 as a "high-class
23 residential suburb" limiting 90% of the property to single-family homes; (b)
24 restrictive covenants forbade an owner to sell or rent a house to anyone not
25 of white or Caucasian race and to not permit African-Americans on their
26 property with the exception of chauffeurs, gardeners and domestic servants;
27 (c) in 1960, Palos Verdes Peninsula voters voted to form a unified school
28 district of their own, and not remain under the more diverse Los Angeles

1 Unified School District's rule (this avoided desegregation and bussing, which
2 came in later in the 1960's and 1970's); (d) in the 1980's, disproportionately
3 white and affluent communities persuaded the Southern California Rapid
4 Transit District (RTD) to end direct bus service between South Central and
5 beach-front communities to the west, increasing the amount of time it took to
6 reach the beach and effectively deterring people of color from going to the
7 beach at all because of the amount of time and hassle it took to get there,
8 and that RTD granted the request of Palos Verdes Peninsula cities that
9 buses from the inner city not climb the Palos Verdes Hill; (e) in 1991, the
10 cities of Palos Verdes Estates, Rancho Palos Verdes, and Rolling Hills
11 Estates formed their own small transit district called the Palos Verdes
12 Peninsula Transit Authority (PVPTA) that only operates Monday to Friday,
13 and does not stop at Palos Verdes Estates beaches like Lunada Bay; (f) on
14 September 11, 2015, defendant NF in this matter served as a lookout on a
15 crime that took place at the local liquor store where the Bay Boys buy beer,
16 and while the police reported it as a robbery gone awry by high school age
17 kids pulling a prank, the liquor store owner explained it as a hate crime
18 because it happened on 9/11, he is a Pakistani/Muslim immigrant and that
19 the boys swung a baseball bat at him breaking his arm, and the boys didn't
20 attempt to steal anything; (g) when coastal access advocates held a Martin
21 Luther King Day paddle out rally in 2014, several Bay Boys paddled out in
22 blackface in front of police and told the visitors, "you don't pay enough taxes
23 to be here"; (h) that when Plaintiff Diana Milena Reed complained about
24 being sexually harassed at the Rock Fort, that police officers responded with
25 words to the effect, "why would a woman want to visit a beach that only has
26 rocks?" and that the Bay Boy's called her "that Diana bitch" in their texts;
27 and (i) that numerous beachgoers have had the word "faggot" screamed at
28 them by locals as they attempt to visit Lunada Bay. These protected-

1 category overtones cause me and CPR grave concern, as all beachgoers,
2 no matter their income level, race, color, religion, gender, sexual orientation
3 or other protected category are entitled to coastal access.

4 10. In September 2016, Gov. Jerry Brown signed legislation
5 amending the Coastal Act which compliments CPRs core mission of open
6 access to the coast for everyone by incorporating the concept of
7 environmental justice into the law. The Coastal Act now explicitly refers to
8 the statutory definition of environmental justice. "Environmental justice"
9 means the fair treatment of people of all races, cultures, and incomes with
10 respect to environmental laws, regulations, and policies under Government
11 Code Section 65040.12. The governor is now required to appoint a
12 Commissioner experienced in and dedicated to environmental justice. Every
13 Commissioner is required to comply with and enforce the cross-cutting equal
14 justice laws. Finally, the Act explicitly refers to state civil rights law that
15 guarantees equal access to publicly funded resources and prohibits
16 discrimination based on race, color, national origin, and other factors,
17 Government Code 11135. Section 11135 applies to all state agencies and
18 recipients of state funding.

19 11. The beaches, tide pools and surf on the Palos Verdes Peninsula
20 and at Lunada Bay are truly unique and everyone should be able to enjoy
21 them. On a low tide, you can see octopi, limpets, crabs, sea urchins and
22 other aquatic life living in the tide pools. There are marine mammals such as
23 seals that patrol the shores; occasionally, a whale can be spotted on the
24 horizon. Standing on the bluff the kelp beds are visible- something totally
25 unique to California. And if you grab a mask and snorkel, you will discover
26 one of the most biologically diverse and productive zones on the planet.
27 Exposing people to these ecological areas give life meaning and put things
28 into perspective; everyone, especially the economically challenged and

1 people who live in poorer communities, should be able to have access to
2 this area of the coast without fearing for his or her safety. Specifically, CPR
3 and I believe that without intimidation, school children from poorer inland
4 communities should be able to take field trips to Lunada Bay for educational
5 purposes and to share these experiences with their parents, families, and
6 friends. Everyone should be able to learn, exercise, enjoy the outdoors and
7 otherwise express themselves in their chosen activities at Lunada Bay.

8 12. CPR and I would like the public to be able to visit Lunada Bay
9 to surf without fear of physical and verbal attack or the hassle of dealing with
10 the Bay Boy bullies. CPR and I would like the public to be able to visit the
11 Lunada Bay bluff, shoreline, and water to explore and surf without fear of
12 having their car vandalized. CPR and I want the Bay Boys and other locals
13 to be barred from using this beach for sufficient time to change attitudes and
14 to give access to the beach back to the public.

15 13. CPR and I want the City of Palos Verdes Estates to enforce its
16 ordinances fairly and for it to provide signage so people will know Lunada
17 Bay is a public beach. CPR and I want the City of Palos Verdes Estates to
18 improve amenities in a fashion that makes it safer, provides improved
19 access to all beachgoers, and is both consistent with this rural spot, the
20 California Coastal Act, and state and federal law. For example, access trails
21 to the shoreline should be clearly marked to make it safer for people visiting
22 to navigate down to the shoreline. And no person should be allowed to
23 block the access trails or to intimidate visitors on the bluff top, on the
24 shoreline, or in the water. CPR and I want Palos Verdes Estates police to
25 be available to help when people are unlawfully excluded. In short, CPR
26 and I want all to be able to visit Lunada Bay without being harassed. And if
27 someone is harassed, we want the City of Palos Verdes Estates police to
28 take complaints seriously. Finally, we would like to see public transportation

1 that makes it easy for people of all walks of life to be able to experience
2 Lunada Bay.

3 I declare under penalty of perjury under the laws of the United States
4 of America that the foregoing is true and correct.

5 Executed on this 28th day of December, 2016, at Murrieta, California.

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MARK SLATTEN

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